



DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2023-D-1716]

Registration and Listing of Cosmetic Product Facilities and Products; Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or we) is announcing the availability of a final guidance for industry entitled “Registration and Listing of Cosmetic Product Facilities and Products.” The guidance will assist persons submitting cosmetic product facility registrations and product listing submissions to FDA under the Modernization of Cosmetics Regulation Act of 2022 (MoCRA). This guidance also includes a new draft section, Appendix B, for comment purposes only, that describes frequently asked questions and answers about cosmetic product facility registrations and product listing submissions. Aside from that section, this guidance finalizes the draft guidance that was published on August 8, 2023.

DATES: The announcement of the guidance is published in the *Federal Register* on [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]. However, the portion of this guidance that describes frequently asked questions and answers, is being distributed for comment purposes only. To ensure that the Agency considers your comment on this draft section before it begins work on the final version of this section of the guidance, submit either electronic or written comments on this section by [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: You may submit either electronic or written comments on Agency guidances at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

- Federal eRulemaking Portal: <https://www.regulations.gov>. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to <https://www.regulations.gov> will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on <https://www.regulations.gov>.
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see "Written/Paper Submissions" and "Instructions").

Written/Paper Submissions

Submit written/paper submissions as follows:

- Mail/Hand delivery/Courier (for written/paper submissions): Dockets Management Staff (HFA-305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in "Instructions."

Instructions: All submissions received must include the Docket No. FDA-2023-D-1716 for "Registration and Listing of Cosmetic Product Facilities and Products." Received comments will be placed in the docket and, except for those submitted as "Confidential Submissions,"

publicly viewable at <https://www.regulations.gov> or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240-402-7500.

- Confidential Submissions--To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states “THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.” The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on <https://www.regulations.gov>. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as “confidential.” Any information marked as “confidential” will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA’s posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at:
<https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf>.

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to <https://www.regulations.gov> and insert the docket number, found in brackets in the heading of this document, into the “Search” box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240-402-7500.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of the guidance to Office of Cosmetics and Colors, Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5001

5001 Campus Dr. , College Park, MD 20740. Send two self-addressed adhesive labels to assist that office in processing your request. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance.

FOR FURTHER INFORMATION CONTACT: Jennifer Ross, Office of the Chief Scientist, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 1, Rm. 4332, Silver Spring, MD 20993-0002, 301-796-4880 (this is not a toll-free number), email: QuestionsAboutMoCRA@fda.hhs.gov.

SUPPLEMENTARY INFORMATION:

I. Background

We are announcing the availability of a guidance for industry entitled “Registration and Listing of Cosmetic Product Facilities and Products.” We are issuing this guidance consistent with our good guidance practices regulation (21 CFR 10.115). The guidance represents the current thinking of FDA on this topic. It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

On December 29, 2022, the President signed the Consolidated Appropriations Act, 2023 (Pub. L. 117–328) into law, which included MoCRA. Among other provisions, MoCRA added section 607 to the Federal Food, Drug, and Cosmetic Act (FD&C Act), establishing requirements for cosmetic product facility registration and cosmetic product listing. Section 607(a) of the FD&C Act (21 U.S.C. 364c(a)) requires every person that owns or operates a facility that engages in the manufacturing or processing of a cosmetic product for distribution in the United States to register each facility with FDA no later than 1 year after the date of enactment. In addition to the registration requirements, section 607(c) of the FD&C Act requires that for each cosmetic product, the responsible person submit to FDA “a cosmetic product listing.” Certain small businesses, as defined in section 612 of the FD&C Act (21 U.S.C. 364h), are exempt from the registration and listing requirements.

In the *Federal Register* of August 8, 2023 (88 FR 53490), we made available a draft guidance for industry entitled “Registration and Listing of Cosmetic Product Facilities and Products” and gave interested parties an opportunity to submit comments by September 7, 2023, for us to consider before beginning work on the final version of the guidance. We received numerous comments on the draft guidance and have modified the final guidance where appropriate. Changes to the guidance include additional information on the facility registration number, United States agent, electronic and paper submission, as well as incorporating FDA’s compliance policy we made available in a guidance for industry as described in the *Federal Register* of November 8, 2023 (88 FR 77323). In addition, we made editorial changes to improve clarity. New appendix B of this guidance is highlighted in grey, describes frequently asked questions and answers, and is marked “for comment purposes only” to provide an opportunity for comment before it is finalized. Aside from appendix B, this guidance finalizes the draft guidance that was published on August 8, 2023.

II. Paperwork Reduction Act of 1995

While this guidance contains no collection of information, it does refer to previously approved FDA collections of information. The previously approved collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501-3521). The collections of information in section 607 of the FD&C Act have been approved under 0910-0599.

III. Electronic Access

Persons with access to the internet may obtain the guidance at <https://www.fda.gov/CosmeticGuidances>, <https://www.fda.gov/regulatory-information/search-fda-guidance-documents>, or <https://www.regulations.gov>. Use the FDA websites listed in the previous sentence to find the most current version of the guidance.

Dated: December 12, 2023.

Lauren K. Roth,

Associate Commissioner for Policy.

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